

UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF WISCONSIN

Lewis Edward Byrd, III,

Plaintiff,

v.

Brandon Arenz,

Defendant.

Civil Action No: 17-CV-191-JDP

DEFENDANT'S RESPONSE TO  
PLAINTIFF'S PROPOSED  
FINDINGS OF FACT

1. On August 13, 2016 Officer Brandon Arenz discharged his firearm Eleven times at Plaintiff Mr. Lewis Byrd. See Ex. 4 pg 2 par 6.

**Response:** Undisputed.

2. Officer Arenz has not had handgun a qualification course since 6-19-14. See Ex. 15 pg. 1.

**Response:** Disputed. Officer Arenz completed his statutory hand-gun recertification on June 9, 2016, and again on June 14, 2017, and was qualified to use the service weapon for the Fiscal Year July 1, 2016 to June 30, 2017, including the date of the incident on August 13, 2016. (Aff. Arenz, ¶ 2 & Ex.1.) The certification was maintained by a municipality other than Hillsboro, which is the reason it was not produced to Mr. Byrd with Officer Arenz's Hillsboro service records. (Aff. Arenz, ¶ 3.)

Exhibit 5  
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3. Officer Brandon Arenz is mandated by the Wisconsin Law Enforcement Standards Board, WI stat 165.85 to have annual qualification recertification training and has failed to do so.

**Response:** Disputed. Defendant does not dispute the requirement for annual recertification training. However, Officer Arenz completed his statutory recertification on June 9, 2016 and was qualified to use the service weapon on August 13, 2016. (Aff. Arenz, ¶ 2 & Ex.1.) The certification was maintained by a municipality other than Hillsboro, which is the reason it was not produced to Mr. Byrd with Officer Arenz's Hillsboro service records. (Aff. Arenz, ¶ 3.)

4. On 9-18-16, a month after the shooting of Mr. Byrd officer Brandon Arenz resigned as a police officer with the Hillsboro Police Department. See Ex. 15 pg 2.

**Response:** Undisputed. On September 18, 2016, Officer Arenz resigned his position with the Hillsboro Police Department.

5. Mr. Byrd had reconstructive surgery on his right arm from his injuries.

**Response:** Undisputed.

6. Mr. Byrd suffered from a non-union radial head fracture, which is different from a common radial head fracture. See Ex. 10 pg. 1.

**Response:** Disputed. The exhibit referenced in this proposed finding does not draw a distinction between a non-union radial head fracture and a common radial head fracture. Plaintiff does not lay foundation for his competence to testify as an expert regarding such a distinction.